IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JODHPUR
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1. **S.B. CIVIL MISC. APPEAL NO.847/2005-NATIONAL INSURANCE COMPANY LTD. VS. SOMA & ORS. AGAINST THE JUDGMENT AND AWARD DATED 6.1.2005 PASSED BY SHRI PRASANT KUMAR SHARMA, RHJS, JUDGE MOTOR ACCIDENT CLAIMS TRIBUNAL, ABU ROAD IN MACT CLAIM CASE NO.79/1999.**

2. **S.B. CIVIL MISC. APPEAL NO.848/2005-NATIONAL INSURANCE COMPANY LTD. VS. ROOPA RAM & ORS. AGAINST THE JUDGMENT AND AWARD DATED 6.1.2005 PASSED BY SHRI PRASANT KUMAR SHARMA, RHJS, JUDGE MOTOR ACCIDENT CLAIMS TRIBUNAL, ABU ROAD IN MACT CLAIM CASE NO.42/1999.**

3. **S.B. CIVIL MISC. APPEAL NO.849/2005-NATIONAL INSURANCE COMPANY LTD. VS. SMT HANSI & ORS. AGAINST THE JUDGMENT AND AWARD DATED 6.1.2005 PASSED BY SHRI PRASANT KUMAR SHARMA, RHJS, JUDGE MOTOR ACCIDENT CLAIMS TRIBUNAL, ABU ROAD IN MACT CLAIM CASE NO.27/1999.**

4. **S.B. CIVIL MISC. APPEAL NO.850/2005-NATIONAL INSURANCE COMPANY LTD. VS. PUNI & ORS. AGAINST THE JUDGMENT AND AWARD DATED 6.1.2005 PASSED BY SHRI PRASANT KUMAR SHARMA, RHJS, JUDGE MOTOR ACCIDENT CLAIMS TRIBUNAL, ABU ROAD IN MACT CLAIM CASE NO.78/1999.**

5. **S.B. CIVIL MISC. APPEAL NO.851/2005-NATIONAL INSURANCE COMPANY LTD. VS. MUGRA & ORS. AGAINST THE JUDGMENT AND AWARD DATED 6.1.2005 PASSED BY SHRI PRASANT KUMAR SHARMA, RHJS, JUDGE MOTOR ACCIDENT CLAIMS TRIBUNAL, ABU ROAD IN MACT CLAIM CASE NO.43/1999.**

6. **S.B. CIVIL MISC. APPEAL NO.852/2005-NATIONAL INSURANCE COMPANY LTD. VS. DHARMI & ORS. AGAINST THE JUDGMENT AND AWARD DATED 6.1.2005 PASSED BY SHRI PRASANT KUMAR SHARMA, RHJS, JUDGE MOTOR ACCIDENT CLAIMS TRIBUNAL, ABU ROAD IN MACT CLAIM CASE NO.25/1999.**

DATE OF ORDER : 5.8.2005

PRESENT
HON'BLE MR. PRAKASH TATIA,J.

Mr.Jagdish Vyas, for the appellant.

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Heard learned counsel for the appellant.

The appellant Insurance Company is aggrieved against the award passed by the Motor Accident Claims Tribunal, Abu Road dated 6.1.2005 whereby the Motor Accident Claims Tribunal, Abu Road decided all the seven claim cases and awarded the compensation amount to the claimants. The appellant insurance company has preferred six appeals to challenge the six awards, as in one of the claim case the award amount is less than Rs.10,000/-.

Since the controversy is very short one and in the opinion of this Court since the controversy has been settled by this Court (by me) in the judgment delivered in Ram lal & Ors Vs. Hasti Mal & Ors reported in 2005 (2) WLC (Raj.) p.668 there may not be any need to refer facts in detail.

The Motor Accident Claims Tribunal held that Insurance Company is not liable to reimburse the insured, but still held that the Insurance Company shall have responsible to satisfy the award amount and the

Insurance Company shall have right to recover the award amount from the owner of the vehicle. According to learned counsel for the appellant the Hon'ble Supreme Court in the case of National Insurance Co. Ltd. Vs. Baljeet Kaur reported in 2004 ACJ 428 nowhere held that in all cases and all circumstances, the Insurance Company shall have liability to satisfy the claim against the owner of the vehicle on the ground that Insurance Company after paying the compensation amount to the claimants, can recover the award amount from the owner of the vehicle. It is also submitted that in recent judgment of the Hon'ble Supreme Court delivered in the case of National Insurance Company Ltd. Vs. Bommithi Subbhayamma & Ors reported in 2005(vol.II) TAC (SC) p.1, after considering various earlier judgments including the judgment of the Baljeet Kaur's (supra), the Hon'ble Apex Court held that in a case where passengers were travelling in the goods vehicle and the vehicle met with accident then those passengers or claimants shall be entitled to recover compensation amount only from owner of the vehicle and owner shall be liable to pay the compensation. Learned counsel for the appellant also relied upon the judgment of the Hon'ble Apex Court delivered in the case of National Insurance Company Vs. Prembai Patel & Ors reported in 2005(1) WLC (CS) Civil 751. According to learned counsel for the appellant by this judgment, the Hon'ble Apex Court held that the ratio decided in the case of New India Assurance Co. Ltd. Vs. CM Jaya & Ors reported in 2002 WLC (SC) Civil 179 covers the field in all

matters under the Motor Vehicles Act, 1988 also. According to learned counsel for the appellant in this judgment also, the Hon'ble Supreme Court held that there shall be no liability of the Insurance Company to pay the compensation amount to the claimants and it shall be liability of the owner of the vehicle only to satisfy the claim amount.

I considered the submissions of learned counsel for the appellant and perused the judgments relied upon by learned counsel for the appellant. The judgment which were relied upon by learned counsel for the appellant only reiterated what has been held in previous judgments of the Hon'ble Supreme Court so far as liability of the Insurance company is concerned. The Hon'ble Supreme Court in various cases, which are referred in the judgment of Ram lal (supra) even after holding that the owner of the vehicle is liable to pay the compensation and the insured will not be liable to pay the compensation, still held that the Insurance Company's liability towards claimant is different and the Insurance Company shall have to satisfy the claim of the claimants. However, the Insurance Company shall have right to recover the amount from the insured.

This Court considered the various judgments of the Hon'ble Apex Court as well as the judgment of this Court on the point and, thereafter, held that the question of initial liability to pay the compensation shall

be of the Insurance Company and, thereafter, the Insurance Company may recover the amount from the insured. The claimants has special status and they are statutory beneficiaries and because of the breach of condition by the insured, the claimants cannot be denied the benefit of getting claim amount from the Insurance Company, which is more secured.

Learned counsel for the appellant also relied upon the judgment of the Hon'ble Apex Court delivered in the case of National Insurance Company Ltd. Vs. Keshav Bahadur & Ors reported in AIR 2004 SC 1591 and submitted that the tribunal committed serious error in awarding interest @ 8% in case appellant fails to deposit the award amount alongwith interest @ 6% per annum within a period of two months from the date of award. It is true that normally and in view of the judgment of the Hon'ble Supreme Court, no interest can be awarded enhancing the rate of interest retrospectively on committing default in payment under the provisions of the Motor Vehicle Act, but in this case, the total interest awarded to the claimants is only 6% per annum from the date of filing of the claim petition and in default it has been increased to only 8%, which appears to be even less than the amount which normally is awarded in the claim petition. Therefore, it is not a fit case where the appellate court should interfere in the matter of award of interest, that too, which is for a short period , i.e., from the period of

claim petition to the period of award.

In view of the above, I do not find any merit in these appeals and the same are hereby dismissed as no other point has been pressed.

(Prakash Tatia), J.

c.p.goyal/-